

Senate Bill No. 450

Passed the Senate September 8, 2011

Secretary of the Senate

Passed the Assembly September 7, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 33080, 33080.1, 33080.2, 33080.8, 33334.2, 33334.3, 33334.4, 33334.12, 33334.16, 33413, 33413.5, 33418, 33487, and 33490 of, to add Sections 33080.9, 33080.11, 33080.12, 33506, and 50464.5 to, and to add Article 13 (commencing with Section 33460) to Chapter 4 of Part 1 of Division 24 of, the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 450, Lowenthal. Redevelopment.

(1) The Community Redevelopment Law requires that each redevelopment agency submit the final report of any audit undertaken by any other local, state, or federal government entity to its legislative body and to additionally present an annual report to the legislative body containing specified information.

This bill would require the agency to include additional information relating to any major audit violations, as defined, any corrections to those violations, and planning and general administrative expenses of the Low and Moderate Income Housing Fund. The bill would authorize the Controller to conduct quality control reviews of independent financial audit reports and require the Controller to publish the results of his or her reviews. The Controller would be required to comply with certain notification and referral provisions in the event that the audit was conducted in a manner that may constitute unprofessional conduct.

The bill would require the Department of Housing and Community Development to conduct audits of redevelopment agencies to ensure compliance with the housing provisions of the Community Redevelopment Law. The bill would require each agency to annually deposit 0.05% of any tax increment deposited into the Low and Moderate Income Housing Fund into the Redevelopment Agency Accountability Fund, which the bill would create, to fund the department audits.

(2) Existing law requires that funds used for purposes of increasing, improving, and preserving a community's supply of low- and moderate-income housing be held in a separate Low and

Moderate Income Housing Fund until used. Existing law limits the planning and general administrative costs which may be paid with moneys from the Low and Moderate Income Housing Fund.

The bill would revise the costs and expenses which may be considered planning and general administrative costs for the purposes of being paid from the Low and Moderate Income Housing Fund. Except as provided, the bill would prohibit an agency from expending more than 15% of the tax increment deposited in the fund for planning and general administrative costs. The bill would impose other reporting and accountability measures on agencies with respect to the use of moneys in the fund for planning and administrative purposes. The bill would revise various provisions governing an action to compel agency compliance with specified provisions.

(3) Existing law requires, except as specified, each agency to expend over each 10-year period of the implementation plan, the moneys in the Low and Moderate Income Housing Fund to assist housing for persons of moderate, low, and very low income according to specified calculations.

The bill would instead require that at least 75% of the agency's expenditures from the fund directly assist the new construction, acquisition and substantial rehabilitation, or preservation of housing for persons of extremely low, very low, low, or moderate income, with at least 25% of the expenditures required to be directed towards housing for persons of extremely low income and at least 50% of the expenditures required to be directed towards housing for persons of very low income.

(4) Existing law authorizes a redevelopment agency to merge project areas under its jurisdiction, and requires that at least 20% of specified taxes allocated to the redevelopment agency be deposited into the Low and Moderate Income Housing Fund to assist in the construction or rehabilitation of housing units for very low, and low- and moderate-income households, as specified. Existing law requires that if those funds have not been committed for that purpose within 6 years, the agency shall offer the funds to the housing authority that operates within the jurisdiction of the agency, as specified.

This bill would delete the requirement that the funds be offered to the housing authority.

(5) Existing law requires an agency that has failed to expend or encumber excess surplus in the Low and Moderate Income Housing Fund within one year to disburse the surplus voluntarily to the appropriate county housing authority or another public agency or to expend or encumber the surplus within 2 additional years.

The bill would delete these provisions. The bill would modify the definition of the term “excess surplus.”

(6) Existing law provides that whenever low- or moderate-income housing dwelling units are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment that is subject to a written agreement with the agency, or where financial assistance has been provided by the agency, the agency is required to provide replacement housing within 4 years of the destruction or removal.

The bill would modify the agency’s obligation to provide replacement housing to low- or moderate-income persons and families and would impose new requirements on the agency with respect to the replacement housing plan and housing specifications. If a court has found that an agency has failed to comply with these provisions, the bill would require the court, at a minimum, to issue an order temporarily prohibiting the agency from issuing any debt for any project area, except as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 33080 of the Health and Safety Code is amended to read:

33080. (a) Every redevelopment agency shall file with the Controller within six months of the end of the agency’s fiscal year a copy of the report required by Section 33080.1. In addition, each redevelopment agency shall file with the department a copy of the audit report required by subdivision (a) of Section 33080.1. The reports shall be made in the time, format, and manner prescribed by the Controller after consultation with the department.

(b) The redevelopment agency shall provide a copy of the report required by Section 33080.1, upon the written request of any person or any taxing agency. If the report does not include detailed information regarding administrative costs, professional services, or other expenditures required under Section 33080.1, the person or taxing agency may request, and the redevelopment agency shall

provide, that information, upon payment of fees covering the direct costs of duplication.

SEC. 2. Section 33080.1 of the Health and Safety Code is amended to read:

33080.1. Every redevelopment agency shall submit the final report of any audit undertaken by any other local, state, or federal government entity to its legislative body within 30 days of receipt of that audit report. In addition, every redevelopment agency shall present an annual report to its legislative body at a public hearing and make the report available on its Internet Web site, or if the agency does not have an Internet Web site, on the community's Internet Web site, within six months of the end of the agency's fiscal year. The annual report shall contain all of the following:

(a) (1) An independent financial audit report for the previous fiscal year. "Audit report" means an examination of, and opinion on, the financial statements of the agency which present the results of the operations and financial position of the agency, including all financial activities with moneys required to be held in a separate Low and Moderate Income Housing Fund pursuant to Section 33334.3. This audit shall be conducted by a certified public accountant or public accountant, licensed by the State of California, in accordance with Government Auditing Standards adopted by the Comptroller General of the United States. The audit report shall meet, at a minimum, the audit guidelines prescribed by the Controller's office pursuant to Section 33080.3 and also include a report on the agency's compliance with laws, regulations, and administrative requirements governing activities of the agency, and a calculation of the excess surplus in the Low and Moderate Income Housing Fund as defined in subdivision (g) of Section 33334.12. The audit report shall include a statement from the auditor as to whether or not the agency has any major audit violations, as defined in subdivision (j) of Section 33080.8.

(2) A statement describing each corrective measure taken in that fiscal year to correct major audit violations identified during or prior to that fiscal year by the agency, its auditor, or the Department of Housing and Community Development.

(3) However, the legislative body may elect to omit from inclusion in the audit report any distinct activity of the agency that is funded exclusively by the federal government and that is subject to audit by the federal government.

(b) A fiscal statement for the previous fiscal year that contains the information required pursuant to Section 33080.5.

(c) A description of the agency's activities in the previous fiscal year affecting housing and displacement that contains the information required by Sections 33080.4 and 33080.7.

(d) A description of the agency's progress, including specific actions and expenditures, in alleviating blight in the previous fiscal year.

(e) A list of, and status report on, all loans made by the redevelopment agency that are fifty thousand dollars (\$50,000) or more, that in the previous fiscal year were in default, or not in compliance with the terms of the loan approved by the redevelopment agency.

(f) A description of the total number and nature of the properties that the agency owns and those properties the agency has acquired in the previous fiscal year.

(g) A list of the fiscal years that the agency expects each of the following time limits to expire:

(1) The time limit for the commencement for eminent domain proceedings to acquire property within the project area.

(2) The time limit for the establishment of loans, advances, and indebtedness to finance the redevelopment project.

(3) The time limit for the effectiveness of the redevelopment plan.

(4) The time limit to repay indebtedness with the proceeds of property taxes.

(h) All of the following relating to the agency's planning and general administrative expenses for the most recently completed fiscal year paid from the Low and Moderate Income Housing Fund:

(1) The amount and percentage of funds deposited into the Low and Moderate Income Housing Fund, exclusive of debt proceeds, expended for planning and general administrative costs described in subparagraphs (A), (C), (D), and (E) of paragraph (1) of subdivision (d) of Section 33334.3.

(2) The amount and percentage of funds deposited into the Low and Moderate Income Housing Fund, exclusive of debt proceeds, expended for planning and general administrative costs described in subparagraph (B) of paragraph (1) of subdivision (d) of Section 33334.3.

(3) Consistent with the categories described in paragraph (1) of subdivision (d) of Section 33334.3, an itemization of each category of planning and general administration expenditures from the Low and Moderate Income Housing Fund and an explicit description of how the expenditures are necessary for the production, improvement, or preservation of low- and moderate-income housing.

(4) A list of the title of any agency, city, or county employees for whom any portion of his or her salary, wages, benefits, or nonpersonnel costs is paid from the Low and Moderate Income Housing Fund, the nature of the employee's activities eligible to be paid from the Low and Moderate Income Housing Fund, the percentage of time the employee spends on activities eligible to be paid from the Low and Moderate Income Housing Fund, the percentage of time the employee spends on activities that are directly and necessarily associated with a specific eligible housing development project or to the direct administration of programs, and the percentage of the employee's salary, wages, benefits, and nonpersonnel costs paid from the Low and Moderate Income Housing Fund.

(5) A list of any overhead costs that are paid directly or indirectly from the Low and Moderate Income Housing Fund, an identification by title and department of any other employees with whom the overhead costs are shared, and a description of the total cost of the shared overhead costs.

(i) A statement of the amount and percentage of funds deposited into the Low and Moderate Income Housing Fund, exclusive of debt proceeds, expended for planning and general administration in each of the preceding five fiscal years that begin after December 31, 2011, broken down by the categories described in paragraph (1) of subdivision (d) of Section 33334.3.

(j) A list of all real properties owned by the agency and purchased with funds from the Low and Moderate Income Housing Fund, the date of acquisition for each property, the agency's intended purpose for each property, a statement of the amount, if any, of moneys from the Low and Moderate Income Housing Fund used to acquire the property, and a statement of the amount, if any, of moneys from the Low and Moderate Income Housing Fund used to maintain the property.

(k) A list of the redevelopment projects that have caused a replacement obligation pursuant to subdivision (a) of Section 33413, the respective number of units the agency is obligated to replace as a result of each project, and the location and status of the replacement units. This list shall cover each fiscal year from the agency's last adopted implementation plan.

(l) A separate list of the development projects that have caused a production obligation pursuant to subdivision (b) of Section 33413, the respective number of units the agency is obligated to produce as a result of each project, and the location and status of the production units. This list shall cover each fiscal year from the agency's last adopted implementation plan.

(m) For each housing project for which the agency has designated funds, encumbered funds, or amended an existing designation or encumbrance of funds during the fiscal year, and where the agency's financing constitutes more than 50 percent of the total cost of the low- and moderate-income housing units in the project, the project name, location, number of affordable units, affordability level, amount of agency financing, and the total cost of the low- and moderate-income units.

(n) An agency that has deposited less than one hundred thousand dollars (\$100,000) into its Low and Moderate Income Housing Fund during the fiscal year is not required to provide in its annual report the information described in subdivisions (h) to (m), inclusive.

(o) Any other information that the agency believes useful to explain its programs, including, but not limited to, the number of jobs created and lost in the previous fiscal year as a result of its activities.

SEC. 3. Section 33080.2 of the Health and Safety Code is amended to read:

33080.2. (a) When the agency presents the annual report to the legislative body pursuant to Section 33080.1, the agency shall inform the legislative body of any major audit violations of this part based on the independent financial audit report or an audit investigation conducted by the department. The agency shall inform the legislative body that the failure to correct a major audit violation of this part may result in the filing of an action by the Attorney General pursuant to Section 33080.8 in a form that indicates whether a referral to the Attorney General has been made.

(b) At the time the agency presents the annual report to the legislative body pursuant to Section 33080.1, the legislative body shall adopt a separate written resolution making a finding, based on substantial evidence in the record, that the actual planning and general administrative expenses for the most recently completed fiscal year paid from the Low and Moderate Income Housing Fund did not exceed the limits established in subparagraphs (A) and (B) of paragraph (2) of subdivision (d) of Section 33334.3 or that the exception in subparagraph (C) of paragraph (2) of subdivision (d) of Section 33334.3 applies.

(c) The legislative body shall review any report submitted pursuant to Section 33080.1 and take any action it deems appropriate on that report no later than the first meeting of the legislative body occurring more than 21 days from the receipt of the report.

SEC. 4. Section 33080.8 of the Health and Safety Code is amended to read:

33080.8. (a) On or before April 1 of each year, the Controller shall compile a list of agencies that appear to have major audit violations as defined in this section, based on the independent financial audit reports filed with the Controller pursuant to Section 33080, and make the list available on the Controller's Internet Web site.

(b) On or before June 1 of each year, for each major audit violation of each agency identified pursuant to subdivision (a), the Controller shall determine if the agency has corrected the major audit violation. Before making this determination, the Controller shall consult with each affected agency and may consult with affected local community groups. In making this determination, the Controller may request and shall receive the prompt assistance of public officials and public agencies, including, but not limited to, the affected agencies, counties, and cities. If the Controller determines that an agency has not corrected the major audit violation, the Controller shall send a list of those agencies, their major violations, all relevant documents, and the affidavits required pursuant to subdivision (d) to the Attorney General for action pursuant to this section.

(c) For each agency that the Controller refers to the Attorney General pursuant to subdivision (b), the Controller shall notify the agency and the legislative body that the agency was on the list sent

to the Attorney General. The Controller's notice shall inform the agency and the legislative body of the duties imposed by Section 33080.2.

(d) Within 45 days of receiving the referral from the Controller pursuant to subdivision (b), the Attorney General shall determine whether to file an action to compel the agency's compliance with this part. Any action filed pursuant to this section shall be commenced in the superior court of any county in which the Attorney General has an office. The time limit for the Attorney General to make this determination is directory and not mandatory. Any action shall be accompanied by an affidavit or affidavits, to be provided by the Controller with the referral, setting forth facts that demonstrate a likelihood of success on the merits of the claim that the agency has a major audit violation. The affidavit shall also certify that the agency and the legislative body were informed not less than 10 days prior to the date on which the action was filed. The agency shall file a response to any action filed by the Attorney General pursuant to this section within 15 days of service.

(e) (1) On the earliest day that the business of the court will permit, but not later than 45 days after the filing of an action pursuant to this section, the court shall conduct a hearing to determine if good cause exists for believing that the agency has a major audit violation and has not corrected that violation.

(2) If the court determines that no good cause exists or that the agency had a major audit violation but corrected the major audit violation, the court shall dismiss the action.

(3) If the court determines that there is good cause for believing that the agency has a major audit violation and has not corrected that major audit violation, the court shall immediately issue an order that prohibits the agency from doing any of the following:

(A) Encumbering any funds or expending any money derived from any source except to pay the obligations designated in subparagraphs (A) to (F), inclusive, of paragraph (1) of subdivision (e) of Section 33334.12, or to pay amounts for the operation and administration of the agency in accordance with the agency's most recently adopted budget.

(B) Adopting a redevelopment plan.

(C) Amending a redevelopment plan except to correct the major audit violation that is the subject of the action.

(D) Issuing, selling, offering for sale, or delivering any bonds or any other evidence of indebtedness, except to increase, improve, preserve, or assist in the construction or rehabilitation of, housing units that will be occupied by and affordable to persons or families of extremely low, very low, low, or moderate income, in accordance with this part.

(E) Incurring any indebtedness, except to increase, improve, preserve, or assist in the construction or rehabilitation of, housing units that will be occupied by and affordable to persons or families of extremely low, very low, low, or moderate income, in accordance with this part.

(F) Exercising the power of eminent domain.

(f) In a case that is subject to paragraph (3) of subdivision (e), the court shall also set a hearing on the matter within 60 days after issuance of the order.

(g) If, on the basis of that subsequent hearing, the court determines that the agency has a major audit violation and has not corrected that violation, the court shall order the agency to comply with this part within 30 days, and order the agency to forfeit to the state a monetary sanction commensurate with the violation. The sanction shall not be paid from the agency's Low and Moderate Income Housing Fund or any other city, county, or agency special fund related to housing.

(h) The order issued by the court pursuant to paragraph (3) of subdivision (e) shall continue in effect until the court determines that the agency has corrected the major audit violation. If the court determines that the agency has corrected the major audit violation, the court may dissolve its order issued pursuant to paragraph (3) of subdivision (e) at any time.

(i) An action filed pursuant to this section to compel an agency to comply with this part is in addition to any other remedy, and is not an exclusive means to compel compliance. This section shall not be construed to preclude an action to compel compliance with this article by any other interested party or resident of the jurisdiction.

(j) As used in this section, "major audit violation" means that, for the fiscal year in question, an agency did not:

(1) File an independent financial audit report that substantially conforms with the requirements of subdivision (a) of Section 33080.1.

(2) File a fiscal statement that includes substantially all of the information required by Section 33080.5.

(3) Establish time limits, as required by Section 33333.6.

(4) Deposit all required tax increment revenues and all other funds required to be deposited into the fund directly into the Low and Moderate Income Housing Fund upon receipt, as required by Section 33334.3, 33334.6, 33487, or 33492.16.

(5) Establish a Low and Moderate Income Housing Fund, as required by subdivision (a) of Section 33334.3 or Section 33487.

(6) Accrue interest earned by the Low and Moderate Income Housing Fund to that fund, as required by subdivision (b) of Section 33334.3.

(7) Comply with subdivisions (d) and (e) of Section 33334.3, governing eligible expenditures for planning and general administration from the Low and Moderate Income Housing Fund, and adopt the resolution required by subdivision (b) of Section 33080.2.

(8) Initiate development of housing on real property acquired using moneys from the Low and Moderate Income Housing Fund or sell the property, as required by Section 33334.16.

(9) Adopt an implementation plan, as required by Section 33490.

SEC. 5. Section 33080.9 is added to the Health and Safety Code, to read:

33080.9. (a) (1) The department shall forward to the Attorney General and the Controller a copy of any audit or investigation of a redevelopment agency conducted pursuant to Section 50464.5.

(2) On or before April 1 of each year, the department shall determine for all audits and investigations conducted the previous year, including those audits and investigations conducted pursuant to Section 50464.5, whether an audit or investigation contains major audit violations, as defined in subdivision (j) of Section 33080.8. The department shall make the information available on its Internet Web site.

(b) On or before June 1 of each year, the department shall determine for each major audit violation identified pursuant to subdivision (a) if the agency has corrected the major audit violation. Before making this determination, the department shall consult with each affected agency and may consult with affected local community groups. In making this determination, the department may request and shall receive the prompt assistance

of public officials and public agencies, including, but not limited to, the affected agencies, counties, and cities. If the department determines an agency has not corrected the major audit violation, the department shall send a list of those agencies, their major audit violations, all relevant documentation, and the affidavits required pursuant to subdivision (e) to the Attorney General for any action pursuant to this section.

(c) For each agency the department refers to the Attorney General pursuant to subdivision (b), the department shall notify the agency and its legislative body that the agency was on the list sent to the Attorney General. The notice shall inform the agency and its legislative body of the duties imposed pursuant to Section 33080.2.

(d) For each agency the department refers to the Attorney General pursuant to subdivision (b), the provisions of subdivisions (d) to (i), inclusive, of Section 33080.8 shall apply, except that references to the Controller in those subdivisions shall be deemed to refer to the department.

(e) Nothing in this section shall be construed to permit the department to initiate or settle litigation, or to resolve any departmental audit or investigation in a manner contrary to law.

SEC. 6. Section 33080.11 is added to the Health and Safety Code, to read:

33080.11. (a) The Controller may conduct quality control reviews of independent financial and compliance audit reports required by Section 33080.1 to the extent it is feasible to do so within existing budgetary resources. The Controller shall communicate the results of his or her reviews to the independent auditor and the agency for which the audit was conducted, and shall review his or her findings with the independent auditor.

(b) If the quality control review specified in subdivision (a) indicates the audit was conducted in a manner that may constitute unprofessional conduct, as defined in Section 5100 of the Business and Professions Code, including, but not limited to, gross negligence resulting in a material misstatement in the audit or failure to disclose noncompliant acts, the Controller shall refer the case to the California Board of Accountancy. If the board determines that the independent auditor conducted an audit in an unprofessional manner, the independent auditor is prohibited from

performing any redevelopment agency audit for a period of three years, in addition to any other penalties the board may impose.

SEC. 7. Section 33080.12 is added to the Health and Safety Code, to read:

33080.12. (a) (1) Whenever the Controller determines through two consecutive quality control reviews, pursuant to Section 33080.11, that audits performed by an independent auditor pursuant to Section 33080.1 were not performed in substantial conformity with provisions of the audit and report guidelines adopted pursuant to Section 33080.3, the Controller shall notify in writing the independent auditor and the California Board of Accountancy.

(2) If the independent auditor does not file an appeal in writing to the board within 30 calendar days after receipt of the Controller's notification, the Controller's determination under this section shall be final.

(3) If an appeal is filed with the California Board of Accountancy, the board shall complete an investigation of the appeal. On the basis of the investigation, the board may do either of the following:

(A) Find the Controller's determination should not be upheld and has no effect.

(B) Schedule the appeal for a hearing.

(b) If the Controller's determination pursuant to subdivision (a) becomes final, the independent auditor shall be ineligible to conduct audits pursuant to Section 33080.1 for a period of three years, or, in the event of an appeal, for any period and subject to conditions that may be ordered by the California Board of Accountancy. No later than March 1 following the date on which the Controller's determination becomes final, the Controller shall notify each agency of those independent auditors determined to be ineligible under this section or Section 33080.11. Agencies shall not use the audit services of an independent auditor ineligible under this section.

(c) For the purposes of this section, "independent auditor" shall mean any person or firm entering into a contract to conduct an audit under Section 33080.1.

(d) This section shall not preclude the California Board of Accountancy from taking any disciplinary action it deems appropriate under any other provisions of law.

SEC. 8. Section 33334.2 of the Health and Safety Code is amended to read:

33334.2. (a) Except as provided in subdivision (k), not less than 20 percent of all taxes that are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined by Section 50052.5, to persons and families of low or moderate income, as defined in Section 50093, lower income households, as defined by Section 50079.5, very low income households, as defined in Section 50105, and extremely low income households, as defined by Section 50106, that is occupied by these persons and families, unless one of the following findings is made annually by resolution:

(1) (A) That no need exists in the community to improve, increase, or preserve the supply of low- and moderate-income housing, including housing for very low income households in a manner that would benefit the project area and that this finding is consistent with the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, including its share of the regional housing needs of very low income households and persons and families of low or moderate income.

(B) This finding shall only be made if the housing element of the community's general plan demonstrates that the community does not have a need to improve, increase, or preserve the supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income and to very low income households. This finding shall only be made if it is consistent with the planning agency's annual report to the legislative body on implementation of the housing element required by subdivision (b) of Section 65400 of the Government Code. No agency of a charter city shall make this finding unless the planning agency submits the report pursuant to subdivision (b) of Section 65400 of the Government Code. This finding shall not take effect until the agency has complied with subdivision (b) of this section.

(2) (A) That some stated percentage less than 20 percent of the taxes that are allocated to the agency pursuant to Section 33670

is sufficient to meet the housing needs of the community, including its share of the regional housing needs of persons and families of low- or moderate-income and very low income households, and that this finding is consistent with the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(B) This finding shall only be made if the housing element of the community's general plan demonstrates that a percentage of less than 20 percent will be sufficient to meet the community's need to improve, increase, or preserve the supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income and to very low income households. This finding shall only be made if it is consistent with the planning agency's annual report to the legislative body on implementation of the housing element required by subdivision (b) of Section 65400 of the Government Code. No agency of a charter city shall make this finding unless the planning agency submits the report pursuant to subdivision (b) of Section 65400 of the Government Code. This finding shall not take effect until the agency has complied with subdivision (b) of this section.

(C) For purposes of making the findings specified in this paragraph and paragraph (1), the housing element of the general plan of a city, county, or city and county shall be current, and shall have been determined by the department pursuant to Section 65585 to be in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(3) (A) That the community is making a substantial effort to meet its existing and projected housing needs, including its share of the regional housing needs, with respect to persons and families of low and moderate income, particularly very low income households, as identified in the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, and that this effort, consisting of direct financial contributions of local funds used to increase and improve the supply of housing affordable to, and occupied by, persons and families of low or moderate income and very low income households is equivalent in impact to the funds otherwise required

to be set aside pursuant to this section. In addition to any other local funds, these direct financial contributions may include federal or state grants paid directly to a community and that the community has the discretion of using for the purposes for which moneys in the Low and Moderate Income Housing Fund may be used. The legislative body shall consider the need that can be reasonably foreseen because of displacement of persons and families of low or moderate income or very low income households from within, or adjacent to, the project area, because of increased employment opportunities, or because of any other direct or indirect result of implementation of the redevelopment plan. No finding under this subdivision may be made until the community has provided or ensured the availability of replacement dwelling units as defined in Section 33411.2 and until it has complied with Article 9 (commencing with Section 33410).

(B) In making the determination that other financial contributions are equivalent in impact pursuant to this subdivision, the agency shall include only those financial contributions that are directly related to programs or activities authorized under subdivision (e).

(C) The authority for making the finding specified in this paragraph shall expire on June 30, 1993, except that the expiration shall not be deemed to impair contractual obligations to bondholders or private entities incurred prior to May 1, 1991, and made in reliance on the provisions of this paragraph. Agencies that make this finding after June 30, 1993, shall show evidence that the agency entered into the specific contractual obligation with the specific intention of making a finding under this paragraph in order to provide sufficient revenues to pay off the indebtedness.

(b) Within 10 days following the making of a finding under either paragraph (1) or (2) of subdivision (a), the agency shall send the Department of Housing and Community Development a copy of the finding, including the factual information supporting the finding and other factual information in the housing element that demonstrates that either (1) the community does not need to increase, improve, or preserve the supply of housing for low- and moderate-income households, including very low income households, or (2) a percentage less than 20 percent will be sufficient to meet the community's need to improve, increase, and preserve the supply of housing for low- and moderate-income

households, including very low income households. Within 10 days following the making of a finding under paragraph (3) of subdivision (a), the agency shall send the Department of Housing and Community Development a copy of the finding, including the factual information supporting the finding that the community is making a substantial effort to meet its existing and projected housing needs. Agencies that make this finding after June 30, 1993, shall also submit evidence to the department of its contractual obligations with bondholders or private entities incurred prior to May 1, 1991, and made in reliance on this finding.

(c) In any litigation to challenge or attack a finding made under paragraph (1), (2), or (3) of subdivision (a), the burden shall be upon the agency to establish that the finding is supported by substantial evidence in light of the entire record before the agency. If an agency is determined by a court to have knowingly misrepresented any material facts regarding the community's share of its regional housing need for low- and moderate-income housing, including very low income households, or the community's production record in meeting its share of the regional housing need pursuant to the report required by subdivision (b) of Section 65400 of the Government Code, the agency shall be liable for all court costs and plaintiff's attorney's fees, and shall be required to allocate not less than 25 percent of the agency's tax increment revenues to its Low and Moderate Income Housing Fund in each year thereafter.

(d) Nothing in this section shall be construed as relieving any other public entity or entity with the power of eminent domain of any legal obligations for replacement or relocation housing arising out of its activities.

(e) In carrying out the purposes of this section, the agency may exercise any or all of its powers for the construction, rehabilitation, or preservation of affordable housing for extremely low, very low, low-, and moderate-income persons or families, including the following:

(1) Acquire real property or building sites subject to Section 33334.16.

(2) (A) Improve real property or building sites with onsite or offsite improvements, but only if both (i) the improvements are part of the new construction or rehabilitation of affordable housing units for low- or moderate-income persons that are directly

benefited by the improvements, and are a reasonable and fundamental component of the housing units, and (ii) the agency requires that the units remain available at affordable housing cost to, and occupied by, persons and families of extremely low, very low, low, or moderate income for the same time period and in the same manner as provided in subdivision (c) and paragraph (2) of subdivision (f) of Section 33334.3.

(B) If the newly constructed or rehabilitated housing units are part of a larger project and the agency improves or pays for onsite or offsite improvements pursuant to the authority in this subdivision, the agency shall pay only a portion of the total cost of the onsite or offsite improvement. The maximum percentage of the total cost of the improvement paid for by the agency shall be determined by dividing the number of housing units that are affordable to low- or moderate-income persons by the total number of housing units, if the project is a housing project, or by dividing the cost of the affordable housing units by the total cost of the project, if the project is not a housing project.

- (3) Donate real property to private or public persons or entities.
- (4) Finance insurance premiums pursuant to Section 33136.
- (5) Construct buildings or structures.
- (6) Acquire buildings or structures.
- (7) Rehabilitate buildings or structures.

(8) Provide subsidies to, or for the benefit of, extremely low income households, as defined by Section 50106, very low income households, as defined by Section 50105, lower income households, as defined by Section 50079.5, or persons and families of low or moderate income, as defined by Section 50093, to the extent those households cannot obtain housing at affordable costs on the open market. Housing units available on the open market are those units developed without direct government subsidies.

(9) Develop plans, pay principal and interest on bonds, loans, advances, or other indebtedness, or pay financing or carrying charges.

(10) Maintain the community's supply of mobilehomes.

(11) Preserve the availability to lower income households of affordable housing units in housing developments that are assisted or subsidized by public entities and that are threatened with imminent conversion to market rates.

(f) The agency may use these funds to meet, in whole or in part, the replacement housing provisions in Section 33413. However, nothing in this section shall be construed as limiting in any way the requirements of that section.

(g) (1) The agency may use these funds inside or outside the project area. The agency may only use these funds outside the project area upon a resolution of the agency and the legislative body that the use will be of benefit to the project. The determination by the agency and the legislative body shall be final and conclusive as to the issue of benefit to the project area. The Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is always of benefit to a project. Unless the legislative body finds, before the redevelopment plan is adopted, that the provision of low- and moderate-income housing outside the project area will be of benefit to the project, the project area shall include property suitable for low- and moderate-income housing.

(2) (A) The Contra Costa County Redevelopment Agency may use these funds anywhere within the unincorporated territory, or within the incorporated limits of the City of Walnut Creek on sites contiguous to the Pleasant Hill BART Station Area Redevelopment Project area. The agency may only use these funds outside the project area upon a resolution of the agency and board of supervisors determining that the use will be of benefit to the project area. In addition, the agency may use these funds within the incorporated limits of the City of Walnut Creek only if the agency and the board of supervisors find all of the following:

(i) Both the County of Contra Costa and the City of Walnut Creek have adopted and are implementing complete and current housing elements of their general plans that the Department of Housing and Community Development has determined to be in compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(ii) The development to be funded shall not result in any residential displacement from the site where the development is to be built.

(iii) The development to be funded shall not be constructed in an area that currently has more than 50 percent of its population comprised of racial minorities or low-income families.

(iv) The development to be funded shall allow construction of affordable housing closer to a rapid transit station than could be constructed in the unincorporated territory outside the Pleasant Hill BART Station Area Redevelopment Project.

(B) If the agency uses these funds within the incorporated limits of the City of Walnut Creek, all of the following requirements shall apply:

(i) The funds shall be used only for the acquisition of land for, and the design and construction of, the development of housing containing units affordable to, and occupied by, low- and moderate-income persons.

(ii) If less than all the units in the development are affordable to, and occupied by, low- or moderate-income persons, any agency assistance shall not exceed the amount needed to make the housing affordable to, and occupied by, low- or moderate-income persons.

(iii) The units in the development that are affordable to, and occupied by, low- or moderate-income persons shall remain affordable for a period of at least 55 years.

(iv) The agency and the City of Walnut Creek shall determine, if applicable, whether Article XXXIV of the California Constitution permits the development.

(h) The Legislature finds and declares that expenditures or obligations incurred by the agency pursuant to this section shall constitute an indebtedness of the project.

(i) This section shall only apply to taxes allocated to a redevelopment agency for which a final redevelopment plan is adopted on or after January 1, 1977, or for any area that is added to a project by an amendment to a redevelopment plan, which amendment is adopted on or after the effective date of this section. An agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project for which a redevelopment plan was adopted prior to January 1, 1977, subject to any indebtedness incurred prior to the election.

(j) (1) (A) An action to compel compliance with the requirement of Section 33334.3 to deposit not less than 20 percent of all taxes that are allocated to the agency pursuant to Section 33670 or other revenue in the Low and Moderate Income Housing Fund shall be commenced within 10 years of the alleged violation. A cause of action for a violation accrues on the last day of the

fiscal year in which the funds were required to be deposited in the Low and Moderate Income Housing Fund.

(B) An action to compel compliance with the requirement of this section or Section 33334.6 that money deposited in the Low and Moderate Income Housing Fund be used by the agency for purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost shall be commenced within 10 years of the alleged violation. A cause of action for a violation accrues on the date of the actual expenditure of the funds.

(C) An agency found to have deposited less into the Low and Moderate Income Housing Fund than mandated by Section 33334.3 or to have spent money from the Low and Moderate Income Housing Fund for purposes other than increasing, improving, and preserving the community's supply of low- and moderate-income housing, as mandated, by this section or Section 33334.3 or 33334.6 shall repay the funds with interest, plus an additional 50 percent of that amount and interest, in one lump sum pursuant to Section 970.4 or 970.5 of the Government Code or may do either of the following:

(i) Petition the court under Section 970.6 for repayment in installments.

(ii) Repay the portion of the judgment due to the Low and Moderate Income Housing Fund in equal installments over a period of five years following the judgment.

(D) An action to compel compliance with the requirements of Section 33487 shall be commenced within 10 years of the alleged violation. A cause of action accrues on the last day of the fiscal year in which the funds were required to be deposited in the Low and Moderate Income Housing Fund or the date of the actual expenditure of the funds, as applicable. In the event the deposits to the Low and Moderate Income Housing Fund are less than the amounts required pursuant to Section 33487, or the expenditures from the Low and Moderate Income Housing Fund are not consistent with Section 33487, the repayment required by subparagraph (C) is applicable. This subparagraph applies to actions filed on or after January 1, 2012.

(2) Repayment shall not be made from the funds required to be set aside or used for low- and moderate-income housing pursuant to this part, or any other funds designated for affordable housing.

(3) Notwithstanding clauses (i) and (ii) of subparagraph (C) or subparagraph (D) of paragraph (1), all costs, including reasonable attorney's fees if included in the judgment, are due and shall be paid upon entry of judgment or order.

(4) Except as otherwise provided in this subdivision, Chapter 2 (commencing with Section 970) of Part 5 of Division 3.6 of Title 1 of the Government Code for the enforcement of a judgment against a local public entity applies to a judgment against a local public entity that violates this section.

(5) Except as provided in subparagraph (D) of paragraph (1), this subdivision applies to actions filed on and after January 1, 2006.

(6) The limitations period specified in subparagraphs (A), (B), and (D) of paragraph (1) does not apply to a cause of action brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(k) (1) From July 1, 2009, to June 30, 2010, inclusive, an agency may suspend all or part of its required allocation to the Low and Moderate Income Housing Fund from taxes that are allocated to that agency pursuant to Section 33670.

(2) An agency that suspends revenue pursuant to paragraph (1) shall pay back to its low- and moderate-income housing fund the amount of revenue that was suspended in the 2009–10 fiscal year pursuant to this subdivision from July 1, 2010, to June 30, 2015, inclusive.

(3) An agency that suspends revenue pursuant to paragraph (1) and fails to repay or have repaid on its behalf the amount of revenue suspended pursuant to paragraph (2) shall, commencing July 1, 2015, be required to allocate an additional 5 percent of all taxes that are allocated to that agency pursuant to Section 33670 for low- and moderate-income housing for the remainder of the time that the agency receives allocations of tax revenue pursuant to Section 33670.

(4) An agency that fails to pay or have paid on its behalf the full amount calculated pursuant to subparagraph (J) of paragraph (2) of subdivision (a) of Section 33690, or subparagraph (J) of paragraph (2) of subdivision (a) of Section 33690.5, as the case may be, shall, commencing July 1, 2010, or July 1, 2011, as applicable, be required to allocate an additional 5 percent of all taxes that are allocated to that agency pursuant to Section 33670

for low- and moderate-income housing for the remainder of the time that the agency receives allocations of tax revenue pursuant to Section 33670.

SEC. 9. Section 33334.3 of the Health and Safety Code is amended to read:

33334.3. (a) The funds that are required by Section 33334.2 or 33334.6 to be used for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing shall be held in a separate Low and Moderate Income Housing Fund until used.

(b) Any interest earned by the Low and Moderate Income Housing Fund and any repayments or other income to the agency for loans, advances, or grants, of any kind from the Low and Moderate Income Housing Fund, shall accrue to and be deposited in, the fund and may only be used in the manner prescribed for the Low and Moderate Income Housing Fund.

(c) The moneys in the Low and Moderate Income Housing Fund shall be used to increase, improve, and preserve the supply of low- and moderate-income housing within the territorial jurisdiction of the agency.

(d) (1) It is the intent of the Legislature that the Low and Moderate Income Housing Fund be used to the maximum extent possible to defray the actual cost of producing, improving, or preserving low- and moderate-income housing and to restrict the use of Low and Moderate Income Housing Fund moneys for planning and general administrative costs to those which are necessary for and directly related to lawful use of the Low and Moderate Income Housing Fund. All of the following categories of costs paid from the Low and Moderate Income Housing Fund shall be considered planning and general administrative costs that are subject to the restrictions set forth in paragraph (2):

(A) Employee compensation costs, including salaries, wages, and benefits, and related nonpersonnel costs, including, but not limited to, travel, training, publications, and conferences, paid to or on behalf of any agency, city, or county employee whose duties include activities authorized under subdivision (e) of Section 33334.2, except for those activities that are necessary for and directly related to the development of a specific eligible housing development project or the deliverance of eligible programs serving low- and moderate-income households. If the employee spends

any time on matters other than those authorized under subdivision (e) of Section 33334.2, Low and Moderate Income Housing Fund moneys may only be used to pay for employee compensation and related nonpersonnel costs in proportion to the actual time that the employee spends on activities authorized under subdivision (e) of Section 33334.2.

(B) Employee compensation costs, including salaries, wages, and benefits, and related nonpersonnel costs, including, but not limited to, travel, training, publications, and conferences, paid to or on behalf of any agency, city, or county employee for activities authorized under subdivision (e) of Section 33334.2 that are necessary for and directly related to the development of a specific eligible housing development project or the deliverance of eligible programs that serve low- and moderate-income households. Those activities shall include negotiation and project management of disposition and development agreements, land leases, loan agreements, and similar affordable housing agreements; redevelopment agency work on entitlements for eligible affordable housing developments; loan processing and servicing; inspection of new and rehabilitated units; construction monitoring of an eligible housing development; and monitoring of affordable housing units. If the employee spends any time on matters other than those authorized under subdivision (e) of Section 33334.2, Low and Moderate Income Housing Fund moneys may only be used to pay for employee compensation and related nonpersonnel costs in proportion to the actual time that the employee spends on activities authorized under subdivision (e) of Section 33334.2.

(C) Employee compensation costs, including salaries, wages, and benefits, paid to or on behalf of any agency, city, or county employee who supervises or manages the work of an employee or employees specified in subparagraph (A) or (B) or who provides general administrative services, including, but not limited to, finance, legal, human resources, information technology, and other administrative services, that indirectly support activities authorized under subdivision (e) of Section 33334.2 and nonpersonnel costs, including, but not limited to, travel, training, publications, and conferences, for those employees that are directly related to those activities. Employee compensation costs shall (i) be justified by an independent cost allocation study no more than six years old, and (ii) not represent a greater proportion of the employee's total

compensation than the proportion of employees working directly and exclusively on activities authorized under subdivision (e) of Section 33334.2 in comparison to the total number of employees supervised, managed, or indirectly supported by that employee.

(D) Overhead costs, including, but not limited to, rent or mortgage payments, equipment, and office supplies. If the overhead costs are shared with departments or employees whose duties include activities other than those authorized under subdivision (e) of Section 33334.2, the proportion of the overhead costs paid from the Low and Moderate Income Housing Fund shall not exceed the proportion of employees working directly and exclusively on activities authorized under subdivision (e) of Section 33334.2 represented in comparison to the total number of employees sharing the space, equipment, or office supplies.

(E) The total value of any contracts for agency planning or administrative services that are related to activities authorized under subdivision (e) of Section 33334.2.

(F) Any other costs for planning and general administrative activities that are related to activities authorized under subdivision (e) of Section 33334.2.

(2) (A) Except as provided in subparagraph (C), an agency in any fiscal year shall not expend more than 10 percent of the money deposited into the Low and Moderate Income Housing Fund, exclusive of debt proceeds, for planning and general administrative costs described in subparagraphs (A), (C), (D), (E), and (F) of paragraph (1).

(B) Except as provided in subparagraph (C), an agency in any fiscal year shall not expend more than 10 percent of the money deposited into the Low and Moderate Income Housing Fund, exclusive of debt proceeds, for planning and general administrative costs described in subparagraph (B) of paragraph (1), except that an agency may additionally expend for these purposes any difference between the cap described in subparagraph (A) and actual expenditures for those planning and general administrative costs.

(C) Subparagraphs (A) and (B) shall not apply to a project area-specific Low and Moderate Income Housing Fund during the first five fiscal years after adoption of that specific project area. Subparagraphs (A) and (B) shall apply to a new or amended project area if tax increment for that new or amended project area is

deposited into an aggregate Low and Moderate Income Housing Fund covering more than one project area.

(3) In a challenge related to the proportionality of costs, as required by subparagraphs (A), (B), (C), and (D) of paragraph (1), the agency shall bear the burden of proof to demonstrate that the costs are proportionate. In a challenge related to compliance with the requirements of paragraph (2), the agency shall bear the burden of proof to demonstrate that costs are appropriately allocated to subparagraph (B) of paragraph (1).

(e) (1) Notwithstanding paragraph (1) of subdivision (d), the agency shall not expend moneys from the Low and Moderate Income Housing Fund for any of the following purposes:

(A) Land use planning or related activities of a planning department, including development or revision of the general plan housing element, except for the payment of normal project-related planning fees applicable to all similar development projects. This limitation shall not preclude an agency from expending moneys from the Low and Moderate Income Housing Fund toward the cost of agency staff participation in the development of the general plan housing element provided that those costs are counted towards the cap described in subparagraph (A) of paragraph (2) of subdivision (d).

(B) Lobbying. The Legislature finds and declares that this subparagraph is declaratory of existing law.

(C) Administration of nonredevelopment activities unrelated to activities allowed pursuant to this section, and Sections 33334.2, 33334.6, and 33487.

(2) An agency may expend up to 2 percent of the moneys deposited into the Low and Moderate Income Housing Fund, exclusive of debt proceeds, for code enforcement activities within a project area that improve the housing opportunities of low- or moderate-income households. However, if code enforcement activities result, directly or indirectly, in the displacement of tenants or the removal from the market of units affordable to or occupied by low- or moderate-income households, the agency shall be subject to the relocation and replacement obligations imposed by this part and the requirements of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code, except that Section 7265.3 of the Government Code shall not apply.

(f) (1) The requirements of this subdivision apply to all new or substantially rehabilitated housing units developed or otherwise assisted with moneys from the Low and Moderate Income Housing Fund, pursuant to an agreement approved by an agency on or after January 1, 1988. Except to the extent that a longer period of time may be required by other provisions of law, the agency shall require that housing units subject to this subdivision shall remain available at affordable housing cost to, and occupied by, persons and families of low or moderate income and very low income and extremely low income households for the longest feasible time, but for not less than the following periods of time:

(A) Fifty-five years for rental units. However, the agency may replace rental units with equally affordable and comparable rental units in another location within the community if (i) the replacement units are available for occupancy prior to the displacement of any persons and families of low or moderate income residing in the units to be replaced and (ii) the comparable replacement units are not developed with moneys from the Low and Moderate Income Housing Fund.

(B) Forty-five years for owner-occupied units. However, the agency may permit sales of owner-occupied units prior to the expiration of the 45-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program which protects the agency's investment of moneys from the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program which establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy. The remainder of the excess proceeds of the sale shall be allocated to the agency and deposited in the Low and Moderate Income Housing Fund. Only the units originally assisted by the agency shall be counted towards the agency's obligations under Section 33413.

(C) Fifteen years for mutual self-help housing units that are occupied by and affordable to very low and low-income households. However, the agency may permit sales of mutual self-help housing units prior to expiration of the 15-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program that (i) protects the agency's investment of moneys from the Low and Moderate

Income Housing Fund, including, but not limited to, an equity sharing program that establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy; and (ii) ensures through a recorded regulatory agreement, deed of trust, or similar recorded instrument that if a mutual self-help housing unit is sold at any time after expiration of the 15-year period and prior to 45 years after the date of recording of the covenants or restrictions required pursuant to paragraph (2), the agency recovers, at a minimum, its original principal from the Low and Moderate Income Housing Fund from the proceeds of the sale and deposits those funds into the Low and Moderate Income Housing Fund. The remainder of the excess proceeds of the sale not retained by the seller shall be allocated to the agency and deposited in the Low and Moderate Income Housing Fund. For the purposes of this subparagraph, “mutual self-help housing unit” means an owner-occupied housing unit for which persons and families of very low and low income contribute no fewer than 500 hours of their own labor in individual or group efforts to provide a decent, safe, and sanitary ownership housing unit for themselves, their families, and others authorized to occupy that unit. Nothing in this subparagraph precludes the agency and the developer of the mutual self-help housing units from agreeing to 45-year deed restrictions.

(2) If land on which those dwelling units are located is deleted from the project area, the agency shall continue to require that those units remain affordable as specified in this subdivision.

(3) The agency shall require the recording in the office of the county recorder of the following documents:

(A) The covenants or restrictions implementing this subdivision for each parcel or unit of real property subject to this subdivision. The agency shall obtain and maintain a copy of the recorded covenants or restrictions for not less than the life of the covenant or restriction.

(B) For all new or substantially rehabilitated units developed or otherwise assisted with moneys from the Low and Moderate Income Housing Fund on or after January 1, 2008, a separate document called “Notice of Affordability Restrictions on Transfer of Property,” set forth in 14-point type or larger. This document shall contain all of the following information:

(i) A recitation of the affordability covenants or restrictions. If the document recorded under this subparagraph is recorded concurrently with the covenants or restrictions recorded under subparagraph (A), the recitation of the affordability covenants or restrictions shall also reference the concurrently recorded document. If the document recorded under this subparagraph is not recorded concurrently with the covenants or restrictions recorded under subparagraph (A), the recitation of the affordability covenants or restrictions shall also reference the recorder's identification number of the document recorded under subparagraph (A).

(ii) The date the covenants or restrictions expire.

(iii) The street address of the property, including, if applicable, the unit number, unless the property is used to confidentially house victims of domestic violence.

(iv) The assessor's parcel number for the property.

(v) The legal description of the property.

(4) The agency shall require the recording of the document required under subparagraph (B) of paragraph (3) not more than 30 days after the date of recordation of the covenants or restrictions required under subparagraph (A) of paragraph (3).

(5) The county recorder shall index the documents required to be recorded under paragraph (3) by the agency and current owner.

(6) Notwithstanding Section 27383 of the Government Code, a county recorder may charge all authorized recording fees to any party, including a public agency, for recording the document specified in subparagraph (B) of paragraph (3).

(7) Notwithstanding any other provision of law, the covenants or restrictions implementing this subdivision shall run with the land and shall be enforceable against any owner who violates a covenant or restriction and each successor in interest who continues the violation, by any of the following:

(A) The agency.

(B) The community, as defined in Section 33002.

(C) A resident of a unit subject to this subdivision.

(D) A residents' association with members who reside in units subject to this subdivision.

(E) A former resident of a unit subject to this subdivision who last resided in that unit.

(F) An applicant seeking to enforce the covenants or restrictions for a particular unit that is subject to this subdivision, if the applicant conforms to all of the following:

- (i) Is of low or moderate income, as defined in Section 50093.
- (ii) Is able and willing to occupy that particular unit.
- (iii) Was denied occupancy of that particular unit due to an alleged breach of a covenant or restriction implementing this subdivision.

(G) A person on an affordable housing waiting list who is of low or moderate income, as defined in Section 50093, and who is able and willing to occupy a unit subject to this subdivision.

(8) A dwelling unit shall not be counted as satisfying the affordable housing requirements of this part, unless covenants for that dwelling unit are recorded in compliance with subparagraph (A) of paragraph (3).

(9) Failure to comply with the requirements of subparagraph (B) of paragraph (3) shall not invalidate any covenants or restrictions recorded pursuant to subparagraph (A) of paragraph (3).

(g) “Housing,” as used in this section, includes residential hotels, as defined in subdivision (k) of Section 37912. The definitions of “lower income households,” “very low income households,” and “extremely low income households” in Sections 50079.5, 50105, and 50106 shall apply to this section. “Longest feasible time,” as used in this section, includes, but is not limited to, unlimited duration.

(h) “Increasing, improving, and preserving the community’s supply of low- and moderate-income housing,” as used in this section and in Section 33334.2, includes the preservation of rental housing units assisted by federal, state, or local government on the condition that units remain affordable to, and occupied by, low- and moderate-income households, including extremely low and very low income households, for the longest feasible time, but not less than 55 years, beyond the date the subsidies and use restrictions could be terminated and the assisted housing units converted to market rate rentals. In preserving these units the agency shall require that the units remain affordable to, and occupied by, persons and families of low- and moderate-income and extremely low and very low income households for the longest feasible time but not less than 55 years. However, the agency may replace rental units

with equally affordable and comparable rental units in another location within the community if (1) the replacement units in another location are available for occupancy prior to the displacement of any persons and families of low or moderate income residing in the units to be replaced and (2) the comparable replacement units are not developed with moneys from the Low and Moderate Income Housing Fund.

(i) Agencies that have more than one project area may satisfy the requirements of Sections 33334.2 and 33334.6 and of this section by allocating, in any fiscal year, less than 20 percent in one project area, if the difference between the amount allocated and the 20 percent required is instead allocated, in that same fiscal year, to the Low and Moderate Income Housing Fund from tax increment revenues from other project areas. Prior to allocating funds pursuant to this subdivision, the agency shall make the finding required by subdivision (g) of Section 33334.2.

(j) Funds from the Low and Moderate Income Housing Fund shall not be used to the extent that other reasonable means of public, private, or commercial financing for the new construction, acquisition, or substantial rehabilitation of units at the same level of affordability and quantity are reasonably available to the agency or to the owner of the units. Prior to the expenditure of funds from the Low and Moderate Income Housing Fund for the new construction, acquisition, or substantial rehabilitation of housing units, where those funds will exceed 50 percent of the cost of producing the units, the agency shall find, based on substantial evidence, that the use of the funds is necessary because the agency or owner of the units has made a good faith attempt but been unable to obtain other public, private, or commercial financing of the units at the same level of affordability and quantity.

SEC. 10. Section 33334.4 of the Health and Safety Code is amended to read:

33334.4. (a) (1) Over each 10-year implementation planning period, as specified in clause (iii) of subparagraph (A) of paragraph (2) of subdivision (a) of Section 33490, that begins before January 1, 2010, each agency shall expend the moneys in the Low and Moderate Income Housing Fund to assist housing for persons of low income and housing for persons of very low income in at least the same proportion as the total number of housing units needed for each of those income groups bears to the total number of units

needed for persons of moderate, low, and very low income within the community, as those needs have been determined for the community pursuant to Section 65584 of the Government Code.

(2) Following the last 10-year implementation planning period referenced in paragraph (1), all of the following shall apply:

(A) At least 75 percent of each agency's expenditures from the Low and Moderate Income Housing Fund exclusive of debt service payments shall directly assist the new construction, acquisition and substantial rehabilitation, or preservation of housing for persons of extremely low, very low, or low income.

(B) At least 50 percent of each agency's expenditures from the Low and Moderate Income Housing Fund exclusive of debt service payments shall directly assist the new construction, acquisition and substantial rehabilitation, or preservation of housing for persons of extremely low or very low income.

(C) At least 25 percent of each agency's expenditures from the Low and Moderate Income Housing Fund exclusive of debt service payments shall directly assist the new construction, acquisition and substantial rehabilitation, or preservation of housing for persons of extremely low income.

(3) The expenditures for extremely low income housing, pursuant to subparagraph (C) of paragraph (2), shall count towards the requirements of subparagraphs (A) and (B) of paragraph (2), and the expenditures for very low and extremely low-income housing pursuant to subparagraphs (B) and (C) of paragraph (2) shall count towards the requirements of subparagraph (A) of paragraph (2).

(4) An agency shall satisfy the requirements of paragraph (2) by demonstrating in each implementation plan that as of the end of the immediately preceding 5-year implementation planning period, the agency's aggregate expenditures from the Low and Moderate Income Housing Fund, exclusive of debt service payments, between the end of the last 10-year implementation period referenced in paragraph (1) and the end of the immediately preceding 5-year implementation planning period satisfy the proportionality requirements set forth in paragraph (2).

(5) (A) For purposes of this subdivision, "preservation" means preserving the affordability of an assisted housing development that is eligible for prepayment or termination or for which within the expiration of rental restrictions is scheduled to occur within

five years, as those terms are defined in Section 65863.10 of the Government Code.

(B) For purposes of this section, “housing for persons of extremely low income” shall mean housing that is available at an affordable rent or affordable housing cost to, and occupied by, households earning 30 percent of the area median income or 30 percent of the statewide median income, whichever is greater.

(b) Each agency shall expend over the duration of each redevelopment implementation plan, the moneys in the Low and Moderate Income Housing Fund to assist housing that is available to all persons regardless of age in at least the same proportion as the number of low-income households with a member under age 65 years bears to the total number of low-income households of the community as reported in the most recent census of the United States Census Bureau.

(c) (1) An agency that has deposited an aggregate amount that is less than two million dollars (\$2,000,000) in the Low and Moderate Income Housing Fund over the first 5-year implementation planning period following the last 10-year implementation planning period referenced in paragraph (1) of subdivision (a) shall have 10 years following the last 10-year implementation planning period referenced in paragraph (1) of subdivision (a) to meet the requirements of paragraph (2) of subdivision (a).

(2) An agency that has deposited in the Low and Moderate Income Housing Fund over the first five years of the period of an implementation plan an aggregate amount that is less than two million dollars (\$2,000,000) shall have an extra five years to meet the requirements of subdivision (b).

(d) For the purposes of this section only, funds may be deemed expended if the agency has contractually obligated the funds to an entity that is independent of the agency or its community for the development of a specific eligible housing development, provided that if the contract is terminated prior to expenditure of the funds, the funds shall be discounted from the calculations required in subdivisions (a) and (b) and the provisions of subdivision (e) shall apply.

(e) (1) If an agency fails to comply with subdivision (a) within the required time period, it shall not expend any moneys from the Low and Moderate Income Housing Fund to assist households

whose incomes exceed 50 percent of the area median income until the agency has expended the funds that it should have expended for extremely low, very low, and low-income housing, respectively, in previous implementation plan periods.

(2) If an agency fails to comply with subdivision (b) within the required time period, it shall not expend any moneys from the Low and Moderate Income Housing Fund to assist senior households until the agency has expended the funds that it should have expended for housing available to all persons regardless of age in previous implementation plan periods.

(f) Agencies are encouraged to expend moneys in the Low and Moderate Income Housing Fund to assist special housing needs identified in the community's housing element pursuant to paragraph (7) of subdivision (a) of Section 65583 of the Government Code.

SEC. 11. Section 33334.12 of the Health and Safety Code is amended to read:

33334.12. (a) Agencies shall expend moneys from the Low and Moderate Income Housing Fund in a manner that does not accrue an excess surplus, as defined in paragraph (1) of subdivision (c). If an agency, after three years has elapsed from the date that the moneys become excess surplus, has not expended or encumbered its excess surplus, the agency shall be subject to sanctions pursuant to subdivision (e), until the agency has expended or encumbered its excess surplus plus an additional amount, equal to 50 percent of the amount of the excess surplus that remains at the end of the three-year period. The additional expenditure shall not be from the agency's Low and Moderate Income Housing Fund, or any other city, county, or agency special fund related to housing, but shall be used in a manner that meets all requirements for expenditures from that fund.

(b) For disbursements or expenditures of excess surplus made prior to January 1, 2012, the housing authority or other public agency to which the money is transferred shall utilize the moneys for the purposes of, and subject to the same restrictions that are applicable to, the redevelopment agency under this part, and for that purpose may exercise all of the powers of a housing authority under Part 2 (commencing with Section 34200) to an extent not inconsistent with these limitations.

(c) For disbursements or expenditures of excess surplus made prior to January 1, 2012, notwithstanding Section 34209 or any other law, for the purpose of accepting a transfer of, and using, moneys pursuant to this section, the housing authority of a county or other public agency may exercise its powers within the territorial jurisdiction of a city redevelopment agency located in that county.

(d) For disbursements or expenditures of excess surplus made prior to January 1, 2012, the amount of excess surplus that shall be transferred to the housing authority or other public agency because of a failure of the redevelopment agency to expend or encumber excess surplus within one year shall be the amount of the excess surplus that is not so expended or encumbered. The housing authority or other public agency to which the moneys are transferred shall expend or encumber these moneys for authorized purposes not later than three years after the date these moneys were transferred from the Low and Moderate Income Housing Fund.

(e) (1) Until a time when the agency has expended or encumbered excess surplus moneys pursuant to subdivision (a), the agency shall be prohibited from encumbering any funds or expending any moneys derived from any source, except that the agency may encumber funds and expend moneys to pay the following obligations, if any, that were incurred by the agency prior to three years from the date the moneys became excess surplus:

(A) Bonds, notes, interim certificates, debentures, or other obligations issued by an agency, whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33640).

(B) Loans or moneys advanced to the agency, including, but not limited to, loans from federal, state, or local agencies, or a private entity.

(C) Contractual obligations which, if breached, could subject the agency to damages or other liabilities or remedies.

(D) Obligations incurred pursuant to Section 33445.

(E) Indebtedness incurred pursuant to Section 33334.2 or 33334.6.

(F) Obligations incurred pursuant to Section 33401.

(G) An amount, to be expended for the operation and administration of the agency, that may not exceed 75 percent of the amount spent for those purposes in the preceding fiscal year.

(2) This subdivision shall not be construed to prohibit the expenditure of excess surplus funds or other funds to meet the requirement in subdivision (a) that the agency spend or encumber excess surplus funds, plus an amount equal to 50 percent of excess surplus, prior to spending or encumbering funds for any other purpose.

(f) For purposes of this section:

(1) “Excess surplus” means any unexpended and unencumbered amount in an agency’s Low and Moderate Income Housing Fund that exceeds the greater of one million dollars (\$1,000,000) or the aggregate amount deposited into the Low and Moderate Income Housing Fund pursuant to Sections 33334.2 and 33334.6 during the agency’s preceding four fiscal years. The first fiscal year to be included in this computation is the 1989–90 fiscal year, and the first date on which an excess surplus may exist is July 1, 1994.

(2) Moneys shall be deemed encumbered if committed pursuant to a legally enforceable contract or agreement for expenditure for purposes specified in Section 33334.2 or 33334.3.

(3) (A) For purposes of determining whether an excess surplus exists, it is the intent of the Legislature to give credit to agencies which convey land for less than fair market value, on which low- and moderate-income housing is built or is to be built if at least 49 percent of the units developed on the land are available at affordable housing cost to lower income households for at least the time specified in subdivision (e) of Section 33334.3, and otherwise comply with all of the provisions of this division applicable to expenditures of moneys from a low- and moderate-income housing fund established pursuant to Section 33334.3. Therefore, for the sole purpose of determining the amount, if any, of an excess surplus, an agency may make the following calculation: if an agency sells, leases, or grants land acquired with moneys from the Low and Moderate Income Housing Fund, established pursuant to Section 33334.3, for an amount which is below fair market value, and if at least 49 percent of the units constructed or rehabilitated on the land are affordable to lower income households, as defined in Section 50079.5, the difference between the fair market value of the land and the amount the

agency receives may be subtracted from the amount of moneys in an agency's Low and Moderate Income Housing Fund.

(B) If taxes that are deposited in the Low and Moderate Income Housing Fund are used as security for bonds or other indebtedness, the proceeds of the bonds or other indebtedness, and income and expenditures related to those proceeds, shall not be counted in determining whether an excess surplus exists. The unspent portion of the proceeds of bonds or other indebtedness, and income related thereto, shall be excluded from the calculation of the unexpended and unencumbered amount in the Low and Moderate Income Housing Fund when determining whether an excess surplus exists.

(C) Nothing in this subdivision shall be construed to restrict the authority of an agency provided in any other provision of this part to expend funds from the Low and Moderate Income Housing Fund.

(D) The department shall develop and periodically revise the methodology to be used in the calculation of excess surplus as required by this section. The director shall appoint an advisory committee to advise in the development of this methodology. The advisory committee shall include department staff, affordable housing advocates, and representatives of the California Redevelopment Association, the California Society of Certified Public Accountants, the Controller, and any other authorities or persons interested in the field that the director deems necessary and appropriate.

(g) Communities in which an agency has disbursed excess surplus funds pursuant to this section shall not disapprove a low- or moderate-income housing project funded in whole or in part by the excess surplus funds if the project is consistent with applicable building codes and the land use designation specified in any element of the general plan as it existed on the date the application was deemed complete. A local agency may require compliance with local development standards and policies appropriate to and consistent with meeting the quantified objectives relative to the development of housing, as required in housing elements of the community pursuant to subdivision (b) of Section 65583 of the Government Code.

(h) Notwithstanding subdivision (a), any agency that has funds that become excess surplus on July 1, 1994, shall have, pursuant to subdivision (a), until January 1, 1995, to decide to transfer the

funds to a housing authority or other public agency, or until January 1, 1997, to expend or encumber those funds, or face sanctions pursuant to subdivision (e).

SEC. 12. Section 33334.16 of the Health and Safety Code is amended to read:

33334.16. (a) (1) For each interest in real property acquired using moneys from the Low and Moderate Income Housing Fund, the agency shall, within five years from the date of acquisition, complete at least one of the following activities:

(A) Enter into a disposition and development agreement or a land lease with a third party for the development of housing affordable to persons and families of low and moderate income.

(B) Obtain final land use entitlements and secure full financing for agency development of housing affordable to persons and families of low and moderate income.

(C) Submit a remedial action plan for the real property to the appropriate oversight agency, including, but not limited to, the Department of Toxic Substances Control, a California regional water quality control board, or the Office of Human Health Risk Assessment, for the cleanup of contamination.

(2) On or after January 1, 2013, if none of the activities described in paragraph (1) has been completed within five years, or if less than 10 percent of the dwelling units or floor area of a project is developed within 10 years from the date the agency originally acquired the property, the agency shall reimburse the Low and Moderate Income Housing Fund 150 percent of the amount expended to acquire and maintain the property or of the current fair market value of the property, whichever amount is greater.

(3) If the agency owns two or more adjacent parcels of real property that comprise a single redevelopment project for which the parcels are described in the implementation plan, the date of acquisition for all such parcels shall be the date of acquisition of the last acquired parcel, provided that this date shall not be later than 5 years after the acquisition of the first parcel.

(4) An agency may adopt a resolution to petition the department for, and the department may grant, a single extension for up to five years of the deadlines established in paragraphs (1) and (2) if the department makes a finding that the failure to complete the required activities is due to circumstances beyond the agency's or

community's control and that the agency has a feasible plan for the development of housing affordable to persons and families of low and moderate income on the real property within the period of the extension. The agency shall provide information supporting the need for the extension and a plan for development of the property. The department shall solicit comments from known or expected parties interested in the petition and consider comments from these and any other parties. The department shall establish a schedule of fees to cover but not exceed its costs under this subparagraph, and at the time the petition is submitted the agency shall pay the fees with funds other than those required to be set aside or used for low- and moderate-income housing pursuant to this part or otherwise designated for affordable housing.

(b) At any time, in addition to proceeds from the sale or transfer, the agency shall deposit into the Low and Moderate Income Housing Fund from agency revenues other than those required to be deposited in the Low and Moderate Income Housing Fund an amount equal to 50 percent of the fair market value of the property at the time it is sold or transferred or, if the property is not sold or transferred, of the fair market value of the land at the time a building permit is issued for the property. This subdivision shall apply only under either of the following conditions:

(1) A real property acquired using moneys from the Low and Moderate Income Housing Fund is sold or transferred for a purpose other than housing affordable to persons and families of low and moderate income.

(2) A real property acquired using moneys from the Low and Moderate Income Housing Fund is developed such that less than 50 percent of the floor area, or a percentage of the floor area equal to the proportion that moneys from the Low and Moderate Income Housing Fund represent to the total acquisition cost, whichever is less, is housing affordable to persons and families of low and moderate income.

SEC. 13. Section 33413 of the Health and Safety Code is amended to read:

33413. (a) Whenever dwelling units affordable to or occupied by persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project that is subject to a written agreement with the agency or where financial assistance has been

provided by the agency, the agency shall, within four years of the destruction or removal, construct, or cause to be constructed, for rental or sale to persons and families of low or moderate income, an equal number of replacement dwelling units that have an equal or greater number of bedrooms as those destroyed or removed units at affordable housing costs within the territorial jurisdiction of the agency, provided that if the units are provided outside the project area the agency shall provide two units for each unit the agency is obligated to replace. The replacement obligation shall apply to all units affordable to low- or moderate-income persons or families at the time of initiation of negotiations of a written agreement with or financial assistance from the agency. For purposes of this section, the inclusion of residential units in the rehabilitation of an existing nonresidential structure shall constitute construction.

(1) When dwelling units are destroyed or removed after September 1, 1989, 75 percent of the replacement dwelling units shall be available at affordable housing cost to, and occupied by, persons and families in the same or a lower income level of very low income households, lower income households, and persons and families of low and moderate income, as the persons and families displaced from those destroyed or removed units.

(2) When dwelling units are destroyed or removed on or after January 1, 2002, 100 percent of the replacement dwelling units shall be available at affordable housing cost to, and occupied by, persons and families in the same or a lower income category (extremely low, very low, low, or moderate), as the persons and families displaced from those destroyed or removed units. This paragraph is declaratory of existing law.

(3) On or after January 1, 2012, in the case where the agency is obligated to replace vacant units, those replacement units shall be available at affordable housing costs to, and occupied by, persons and families in the same or lower income category (extremely low, very low, low, or moderate) in the same proportion as the units occupied or last occupied by low- and moderate-income households in the property.

(4) Up to 25 percent of the replacement obligation incurred during a five-year implementation plan may be satisfied in either of the following ways:

(A) With units that have been rehabilitated such that after-rehabilitation value is increased by 50 percent or more of the pre-rehabilitation value, as evidenced by pre and post rehabilitation appraisals and, the rehabilitated units were, at the time the dwelling units to be replaced were destroyed or removed were either of the following:

(i) At risk of demolition or closure due to substandard conditions and occupied by extremely low or very low income households.

(ii) Vacant due to substandard conditions as defined in Section 1941.1 of the Civil Code.

(B) With substantially rehabilitated multifamily rental dwelling units, as defined in paragraph (2) of subdivision (b) and evidenced by pre and post rehabilitation appraisals, provided that the agency shall substantially rehabilitate within the project area, two units for each unit the agency is obligated to replace, or outside of the project area, three units for each unit the agency is obligated to replace.

(5) For each project containing rehabilitated replacement units, the agency shall adopt a separate written resolution, after public hearing and based on substantial evidence, that the rehabilitation of the replacement dwelling units complies with this subdivision.

(b) (1) Prior to the time limit on the effectiveness of the redevelopment plan established pursuant to Sections 33333.2, 33333.6, and 33333.10 at least 30 percent of all new and substantially rehabilitated dwelling units developed by an agency shall be available at affordable housing cost to, and occupied by, persons and families of low or moderate income. Not less than 50 percent of the dwelling units required to be available at affordable housing cost to, and occupied by, persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

(2) (A) (i) Prior to the time limit on the effectiveness of the redevelopment plan established pursuant to Sections 33333.2, 33333.6, and 33333.10 at least 15 percent of all new and substantially rehabilitated dwelling units developed within a project area under the jurisdiction of an agency by public or private entities or persons other than the agency shall be available at affordable housing cost to, and occupied by, persons and families of low or moderate income. Not less than 40 percent of the dwelling units required to be available at affordable housing cost to, and occupied

by, persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

(ii) To satisfy this paragraph, in whole or in part, the agency may cause, by regulation or agreement, to be available, at affordable housing cost, to, and occupied by, persons and families of low or moderate income or to very low income households, as applicable, two units outside a project area for each unit that otherwise would have been required to be available inside a project area.

(iii) On or after January 1, 2002, as used in this paragraph and in paragraph (1), “substantially rehabilitated dwelling units” means all units substantially rehabilitated, with agency assistance. Prior to January 1, 2002, “substantially rehabilitated dwelling units” shall mean substantially rehabilitated multifamily rented dwelling units with three or more units regardless of whether there is agency assistance, or substantially rehabilitated, with agency assistance, single-family dwelling units with one or two units.

(iv) As used in this paragraph and in paragraph (1), “substantial rehabilitation” means rehabilitation, the value of which constitutes 25 percent of the after-rehabilitation value of the dwelling, inclusive of the land value.

(v) To satisfy this paragraph, the agency may aggregate new or substantially rehabilitated dwelling units in one or more project areas, if the agency finds, based on substantial evidence, after a public hearing, that the aggregation will not cause or exacerbate racial, ethnic, or economic segregation.

(B) To satisfy the requirements of paragraph (1) and subparagraph (A), the agency may purchase, or otherwise acquire or cause by regulation or agreement the purchase or other acquisition of, long-term affordability covenants on multifamily units that restrict the cost of renting or purchasing those units that either: (i) are not presently available at affordable housing cost to persons and families of low or very low income households, as applicable; or (ii) are units that are presently available at affordable housing cost to this same group of persons or families, but are units that the agency finds, based upon substantial evidence, after a public hearing, cannot reasonably be expected to remain affordable to this same group of persons or families.

(C) To satisfy the requirements of paragraph (1) and subparagraph (A), the long-term affordability covenants purchased or otherwise acquired pursuant to subparagraph (B) shall be required to be maintained on dwelling units at affordable housing cost to, and occupied by, persons and families of low or very low income, for the longest feasible time but not less than 55 years for rental units and 45 years for owner-occupied units. Not more than 50 percent of the units made available pursuant to paragraph (1) and subparagraph (A) may be assisted through the purchase or acquisition of long-term affordability covenants pursuant to subparagraph (B). Not less than 50 percent of the units made available through the purchase or acquisition of long-term affordability covenants pursuant to subparagraph (B) shall be available at affordable housing cost to, and occupied by, very low income households.

(D) To satisfy the requirements of paragraph (1) and subparagraph (A), each mutual self-help housing unit, as defined in subparagraph (C) of paragraph (1) of subdivision (f) of Section 33334.3, that is subject to a 15-year deed restriction shall count as one-third of a unit.

(3) The requirements of this subdivision shall apply independently of the requirements of subdivision (a). The requirements of this subdivision shall apply, in the aggregate, to housing made available pursuant to paragraphs (1) and (2), respectively, and not to each individual case of rehabilitation, development, or construction of dwelling units, unless an agency determines otherwise.

(4) Each redevelopment agency, as part of the implementation plan required by Section 33490, shall adopt a plan to comply with the requirements of this subdivision for each project area. The plan shall be consistent with, and may be included within, the community's housing element. The plan shall be reviewed and, if necessary, amended at least every five years in conjunction with the plan implementation cycle. The plan shall ensure that the requirements of this subdivision are met every 10 years. If the requirements of this subdivision are not met by the end of each 10-year period, the agency shall meet these goals on an annual basis until the requirements for the 10-year period are met. If the agency has exceeded the requirements within the 10-year period, the agency may count the units that exceed the requirement in

order to meet the requirements during the next 10-year period. The plan shall contain the contents required by paragraphs (2), (3), and (4) of subdivision (a) of Section 33490.

(c) (1) The agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, constructed, or price restricted pursuant to subdivision (a) or (b) remain available at affordable housing cost to, and occupied by, persons and families of extremely low income, very low income, low income, and moderate income, respectively, for the longest feasible time, but for not less than 55 years for rental units, 45 years for home ownership units, and 15 years for mutual self-help housing units, as defined in subparagraph (C) of paragraph (1) of subdivision (f) of Section 33334.3, except as set forth in paragraph (2). Nothing in this paragraph precludes the agency and the developer of the mutual self-help housing units from agreeing to 45-year deed restrictions.

(2) Notwithstanding paragraph (1), the agency may permit sales of owner-occupied units prior to the expiration of the 45-year period, and mutual self-help housing units prior to the expiration of the 15-year period, established by the agency for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program that protects the agency's investment of moneys from the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program that establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds, based on the length of occupancy. The remainder of the excess proceeds of the sale shall be allocated to the agency, and deposited into the Low and Moderate Income Housing Fund. The agency shall, within three years from the date of sale pursuant to this paragraph of each home ownership or mutual self-help housing unit subject to a 45-year deed restriction, and every third mutual self-help housing unit subject to a 15-year deed restriction, expend funds to make affordable an equal number of units at the same or lowest income level as the unit or units sold pursuant to this paragraph, for a period not less than the duration of the original deed restrictions. Only the units originally assisted by the agency shall be counted towards the agency's obligations under Section 33413.

(3) The requirements of this section shall be made enforceable in the same manner as provided in paragraph (7) of subdivision (f) of Section 33334.3.

(4) If land on which the dwelling units required by this section are located is deleted from the project area, the agency shall continue to require that those units remain affordable as specified in this subdivision.

(5) For each unit counted towards the requirements of subdivision (a) or (b), the agency shall require the recording in the office of the county recorder of covenants or restrictions that ensure compliance with this subdivision. With respect to covenants or restrictions that are recorded on or after January 1, 2008, the agency shall comply with the requirements of paragraphs (3) and (4) of subdivision (f) of Section 33334.3.

(d) (1) This section applies only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) on or after January 1, 1976, and to areas that are added to a project area by amendment to a final redevelopment plan adopted on or after January 1, 1976. In addition, subdivision (a) shall apply to any other redevelopment project with respect to dwelling units destroyed or removed from the low- and moderate-income housing market on or after January 1, 1996, irrespective of the date of adoption of a final redevelopment plan or an amendment to a final redevelopment plan adding areas to a project area. Additionally, any agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project of the agency for which the final redevelopment plan was adopted prior to January 1, 1976. In addition, subdivision (b) shall apply to redevelopment plans adopted prior to January 1, 1976, for which an amendment is adopted pursuant to Section 33333.10, except that subdivision (b) shall apply to those redevelopment plans prospectively only so that the requirements of subdivision (b) shall apply only to new and substantially rehabilitated dwelling units for which the building permits are issued on or after the date that the ordinance adopting the amendment pursuant to Section 33333.10 becomes effective.

(2) An agency may, by resolution, elect to require that whenever dwelling units housing persons or families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment

project, the agency shall replace each dwelling unit with up to three replacement dwelling units pursuant to subdivision (a).

(e) Except as otherwise authorized by law, this section does not authorize an agency to operate a rental housing development beyond the period reasonably necessary to sell or lease the housing development.

(f) Notwithstanding subdivision (a), the agency may replace destroyed or removed dwelling units with a fewer number of replacement dwelling units if the replacement dwelling units meet both of the following criteria:

(1) The total number of bedrooms in the replacement dwelling units equals or exceeds the number of bedrooms in the destroyed or removed units. Destroyed or removed units having one or no bedroom are deemed for this purpose to have one bedroom.

(2) The replacement units are affordable to and occupied by the same income level of households as the destroyed or removed units.

(g) “Longest feasible time,” as used in this section, includes, but is not limited to, unlimited duration.

(h) If a court finds that an agency has failed to comply with the requirements of this section, the court, at a minimum, shall issue an order that prohibits the agency from issuing any debt for any project area, except debt from which all the proceeds will be deposited into the Low and Moderate Income Housing Fund or otherwise used to comply with the requirements of this section, until such time as the court finds that the agency has fully complied with the requirements of this section.

SEC. 14. Section 33413.5 of the Health and Safety Code is amended to read:

33413.5. Not less than 30 days prior to the execution of an agreement for acquisition of real property, the execution of an agreement for the disposition and development of property, the execution of an owner participation agreement, or other agreement or assistance that would lead to the destruction or removal of dwelling units from the low- and moderate-income housing market, the agency shall adopt by resolution a replacement housing plan. For a reasonable time prior to adopting a replacement housing plan by resolution, the agency shall make available a draft of the proposed replacement housing plan for review and comment by

the tenants to be displaced, the project area committee, other public agencies, and the general public.

The replacement housing plan shall include (1) the general location of housing to be rehabilitated or constructed pursuant to Section 33413, (2) a description of the occupancy and affordability restrictions to be imposed on the replacement dwelling units, (3) substantial evidence supporting a finding that the replacement dwelling units will meet the needs of households in the income categories of the households displaced from the dwelling units that the replacement units are intended to replace, (4) a declaration of whether the agency intends to rehabilitate existing dwelling units pursuant to paragraph (5) of subdivision (a) of Section 33413, (5) an adequate means of financing such rehabilitation or construction, (6) a finding that the replacement housing does not require the approval of the voters pursuant to Article XXXIV of the California Constitution, or that such approval has been obtained, (7) the number of dwelling units housing persons and families of low or moderate income planned for construction or rehabilitation, and (8) the timetable for meeting the plan's relocation, rehabilitation, and replacement housing objectives. A dwelling unit whose replacement is required by Section 33413 but for which no replacement housing plan has been prepared, shall not be destroyed or removed from the low- and moderate-income housing market until the agency has by resolution adopted a replacement housing plan.

Nothing in this section shall prevent an agency from destroying or removing from the low- and moderate-income housing market a dwelling unit which the agency owns and which is an immediate danger to health and safety. The agency shall, as soon as practicable, adopt by resolution a replacement housing plan with respect to such dwelling unit.

SEC. 14.5. Section 33418 of the Health and Safety Code is amended to read:

33418. (a) An agency shall monitor, on an ongoing basis, any housing affordable to persons and families of low or moderate income developed or otherwise made available pursuant to any provisions of this part. As part of this monitoring, an agency shall require owners or managers of the housing to submit an annual report to the agency. The annual reports shall include for each rental unit the rental rate and the income and family size of the

occupants, and for each owner-occupied unit whether there was a change in ownership from the prior year and, if so, the income and family size of the new owners. The income information required by this section shall be supplied by the tenant in a certified statement on a form provided by the agency.

(b) The data specified in subdivision (a) shall be obtained by the agency from owners and managers of the housing specified therein and current data shall be included in any reports required by law to be submitted to the Department of Housing and Community Development or the Controller. The information on income and family size that is required to be reported by the owner or manager shall be supplied by the tenant and shall be the only information on income or family size that the owner or manager shall be required to submit on his or her annual report to the agency.

(c) (1) The agency shall compile and maintain a database of existing, new and substantially rehabilitated, housing units developed or otherwise assisted with moneys from the Low and Moderate Income Housing Fund, or otherwise counted towards the requirements of subdivision (a) or (b) of Section 33413. The database shall be made available to the public on the Internet and updated on an annual basis and shall include the date the database was last updated. The database shall require all of the following information for each owner-occupied unit or rental unit, or for each group of units, if more than one unit is subject to the same covenant:

(A) The street address and assessor's parcel number of the property.

(B) The size of each unit, measured by the number of bedrooms.

(C) The year in which the construction or substantial rehabilitation of the unit was completed.

(D) The date of recordation and document number of the affordability covenants or restrictions required under subdivision (f) of Section 33334.3.

(E) The date on which the covenants or restrictions expire.

(F) For owner-occupied units that have changed ownership during the reporting year, as described in subdivision (a), the date and document number of the new affordability covenants or other documents recorded to ensure that the affordability restriction is enforceable and continues to run with the land.

(G) Whether occupancy in the unit or units is restricted to any special population, including senior citizens.

(H) The affordability level of each unit.

(I) Whether the unit is a rental or ownership unit.

(J) Whether the unit is being counted towards a replacement obligation pursuant to subdivision (a) of Section 33413 or towards a production obligation pursuant to subdivision (b) of Section 33413.

(K) The project type, including, but not limited to, new construction, substantial rehabilitation, preservation, or the purchase of long-term affordability covenants.

(2) Notwithstanding subparagraphs (A) and (D) of paragraph (1), the database shall omit any property used to confidentially house victims of domestic violence.

(3) Upon establishment of a database under this section, the agency shall provide reasonable notice to the community regarding the existence of the database.

(d) The agency shall adequately fund its monitoring activities as needed to insure compliance of applicable laws and agreements in relation to affordable units. For purposes of defraying the cost of complying with the requirements of this section and the changes in reporting requirements of Section 33080.4 enacted by the act enacting this section, an agency may establish and impose fees upon owners of properties monitored pursuant to this section.

(e) The agency shall continue to monitor and enforce the covenants covered by this section for the entire period of the covenant. In the event the agency ceases its activities prior to the entire period of the covenants, then its designated successor agency shall monitor and enforce the covenants for the remaining period of the covenant. If a successor agency is not designated at the time the agency ceases its activities, then the community shall monitor and enforce the covenants for the remaining period of the covenant.

SEC. 15. Article 13 (commencing with Section 33460) is added to Chapter 4 of Part 1 of Division 24 of the Health and Safety Code, to read:

Article 13. Accountability Audits

33460. (a) The Legislature hereby finds and declares both of the following:

(1) Past department audits of redevelopment agencies have uncovered errors, omissions, and violations that have resulted in significant repayments to agencies' Low and Moderate Income Housing Fund, thereby providing additional resources for increasing, improving, and preserving the supply of low- and moderate-income housing available at affordable housing cost.

(2) Providing funding for future department audits of redevelopment agencies will ensure that tax increment, interest, and debt proceeds are appropriately deposited into the Low and Moderate Income Housing Fund and that agencies make only legal expenditures from the fund, thereby providing additional resources for increasing, improving, and preserving the supply of low- and moderate-income housing available at affordable housing cost. As a result, the deposits required by this section are permissible pursuant to paragraph (7) of subdivision (a) of Section 25.5 of Article XIII of the California Constitution.

(b) Immediately upon receipt, each agency shall annually deposit one-half of one-tenth (.0005) percent of any tax increment deposited into the Low and Moderate Income Housing Fund into the Redevelopment Agency Accountability Fund created pursuant to Section 50464.5 to be used solely for the purpose described in subdivision (b) of that section.

SEC. 16. Section 33487 of the Health and Safety Code is amended to read:

33487. (a) Subject to subdivisions (a) and (b) of Section 33486, not less than 20 percent of all taxes that are allocated to the redevelopment agency pursuant to Section 33670 for redevelopment projects merged pursuant to this article, irrespective of the date of adoption of the final redevelopment plans, shall be deposited by the agency in the Low and Moderate Income Housing Fund established pursuant to Section 33334.3, or which shall be established for purposes of this section. The agency shall use the moneys in this fund to assist in the construction or rehabilitation of housing units that will be available to, or occupied by, persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105, at an affordable housing cost for the longest feasible time period but not less than 55 years for rental units and 45 years for owner-occupied units. For the purposes of this subdivision, "construction and rehabilitation" shall include acquisition of land,

improvements to land; the acquisition, rehabilitation, or construction of structures; or the provision of subsidies necessary to provide housing for persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105.

(b) The agency may use the funds set aside by subdivision (a) inside or outside the project area. However, the agency may only use these funds outside the project area upon a resolution of the agency and the legislative body that the use will be of benefit to the project. This determination by the agency and the legislative body shall be final and conclusive as to the issue of benefit to the project area. The Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is of benefit to a project.

The Legislature finds and declares that expenditures or obligations incurred by the agency pursuant to this section shall constitute an indebtedness of the project.

(c) If the agency deposits less than 20 percent of taxes allocated pursuant to Section 33670, due to the provisions of subdivisions (a) and (b) of Section 33486, in any fiscal year, a deficit shall be created in the Low and Moderate Income Housing Fund in an amount equal to the difference between 20 percent of the taxes allocated pursuant to Section 33670 and the amount deposited in that year. The deficit, if any, created pursuant to this section constitutes an indebtedness of the project. The agency shall eliminate the deficit by expending taxes allocated in years subsequent to creation of the deficit and, until the time when that deficit has been eliminated, an agency shall not incur new obligations for purposes other than those set forth in Section 33487, except to comply with the terms of any resolution or other agreement pledging taxes allocated pursuant to Section 33670 that existed on the date of merger pursuant to this article.

(d) Notwithstanding subdivision (d) of Section 33413, any agency that merges its redevelopment project areas pursuant to this article shall be subject to subdivisions (a) and (c) of Section 33413.

SEC. 17. Section 33490 of the Health and Safety Code is amended to read:

33490. (a) (1) (A) On or before December 31, 1994, and each five years thereafter, each agency that has adopted a redevelopment

plan prior to December 31, 1993, shall adopt, after a public hearing, an implementation plan that shall contain the specific goals and objectives of the agency for the project area, the specific programs, including potential projects, and estimated expenditures proposed to be made during the next five years, and an explanation of how the goals and objectives, programs, and expenditures will eliminate blight within the project area and implement the requirements of Section 33333.10, if applicable, and Sections 33334.2, 33334.4, 33334.6, 33413, and 33487. After adoption of the first implementation plan, the parts of the implementation plan that address Section 33333.10, if applicable, and Sections 33334.2, 33334.4, 33334.6, 33413, and 33487 shall be adopted every five years in conjunction with the implementation plan cycle and shall be made available to the public on the Internet. The agency may amend the implementation plan after conducting a public hearing on the proposed amendment. If an action attacking the adoption, approval, or validity of a redevelopment plan adopted prior to January 1, 1994, has been brought pursuant to Chapter 5 (commencing with Section 33500), the first implementation plan required pursuant to this section shall be adopted within six months after a final judgment or order has been entered. Subsequent implementation plans required pursuant to this section shall be adopted pursuant to the terms of this section, and as if the first implementation plan had been adopted on or before December 31, 1994.

(B) Adoption of an implementation plan shall not constitute an approval of any specific program, project, or expenditure and shall not change the need to obtain any required approval of a specific program, project, or expenditure from the agency or community. The adoption of an implementation plan shall not constitute a project within the meaning of Section 21000 of the Public Resources Code. However, the inclusion of a specific program, potential project, or expenditure in an implementation plan prepared pursuant to subdivision (c) of Section 33352 in conjunction with a redevelopment plan adoption shall not eliminate analysis of those programs, potential projects, and expenditures in the environmental impact report prepared pursuant to subdivision (k) of Section 33352 to the extent that it would be otherwise required. In addition, the inclusion of programs, potential projects, and expenditures in an implementation plan shall not eliminate

review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), at the time of the approval of the program, project, or expenditure, to the extent that it would be otherwise required.

(2) (A) A portion of the implementation plan shall address the agency housing responsibilities and shall contain a section addressing Section 33333.10, if applicable, and Sections 33334.2, 33334.4, 33334.6, and 33487, the Low and Moderate Income Housing Fund, and, if subdivision (b) of Section 33413 applies, a section addressing agency developed and project area housing. The section addressing the Low and Moderate Income Housing Fund shall contain:

(i) The amount available in the Low and Moderate Income Housing Fund and the estimated amounts which will be deposited in the Low and Moderate Income Housing Fund during each of the next five years.

(ii) A housing program with estimates of the number of new, rehabilitated, or price restricted units to be assisted during each of the five years and estimates of the expenditures of moneys from the Low and Moderate Income Housing Fund during each of the five years.

(iii) A description of how the housing program will implement the requirement for expenditures of moneys in the Low and Moderate Income Housing Fund over a 10-year period or 5-year period, as applicable, for various groups as required by Section 33334.4. For project areas to which subdivision (b) of Section 33413 applies, the 10-year period within which subdivision (b) of Section 33413 is required to be implemented shall coincide with the 10-year period or with two 5-year periods, as applicable, within which Section 33334.4 is required to be implemented. Notwithstanding the first sentence of Section 33334.4 and the first sentence of this clause, in order to allow these two 10-year time periods to coincide for the first time period, the time to implement the requirements of Section 33334.4 shall be extended two years, and project areas in existence on December 31, 1993, shall implement the requirements of Section 33334.4 on or before December 31, 2014, rather than December 31, 2012. For project areas to which subdivision (b) of Section 33413 does not apply,

the requirements of Section 33334.4 shall be implemented on or before December 31, 2014.

(iv) This requirement to include a description of how the housing program will implement Section 33334.4 in the implementation plan shall apply to implementation plans adopted pursuant to subdivision (a) on or after December 31, 2002.

(B) For each project area to which subdivision (b) of Section 33413 applies, the section addressing the agency developed and project area housing shall contain:

(i) Estimates of the number of new, substantially rehabilitated or price restricted residential units to be developed or purchased within one or more project areas, both over the life of the plan and during the next 10 years.

(ii) Estimates of the number of units of very low, low-, and moderate-income households required to be developed within one or more project areas in order to meet the requirements of paragraph (2) of subdivision (b) of Section 33413, both over the life of the plan and during the next 10 years.

(iii) A statement of the number of units of very low, low-, and moderate-income households which have been developed over the life of the plan within one or more project areas which meet the requirements of subdivision (b) of Section 33413.

(iv) Estimates of the number of agency developed residential units which will be developed during the next five years, if any, which will be governed by paragraph (1) of subdivision (b) of Section 33413.

(v) Estimates of the number of agency developed units for very low, low-, and moderate-income households which will be developed by the agency during the next five years to meet the requirements of paragraph (1) of subdivision (b) of Section 33413.

(C) The section addressing Section 33333.10, if applicable, and Section 33334.4 shall contain all of the following:

(i) The proposed amount of expenditures from the Low and Moderate Income Housing Fund for the new construction, acquisition and substantial rehabilitation, or preservation of housing for persons of extremely low, very low, or low income during each year of the implementation plan period.

(ii) The total population of the community and the population under 65 years of age as reported in the most recent census of the United States Census Bureau.

(iii) A housing program that provides a detailed schedule of actions the agency is undertaking or intends to undertake to ensure expenditure of the Low and Moderate Income Housing Fund in the proportions required by Section 33333.10, if applicable, and Section 33334.4.

(iv) For the previous implementation plan period, the number, the location, and level of affordability of units newly constructed without agency assistance and that are required to be affordable to, and occupied by, persons of low, very low, or extremely low income for at least 55 years for rental housing or 45 years for home ownership housing, and the amount of Low and Moderate Income Housing Fund moneys utilized to assist housing units available to families with children, and the number, location, and level of affordability of those units.

(v) A demonstration, based on substantial evidence in the plan, that as of the end of the immediately preceding 5-year implementation planning period, the agency's aggregate expenditures from the Low and Moderate Income Housing Fund, exclusive of debt service payments, between the end of the last 10-year implementation period referenced in paragraph (1) of subdivision (a) of Section 33334.4 and the end of the immediately preceding 5-year implementation planning period satisfy the proportionality requirements set forth in paragraph (2) of subdivision (a) of Section 33334.4.

(3) If the implementation plan contains a project that will result in the destruction or removal of dwelling units that will have to be replaced pursuant to subdivision (a) of Section 33413, the implementation plan shall identify proposed locations suitable for those replacement dwelling units. If the implementation plan contains a project that has resulted in the destruction or removal of dwelling units that must be replaced pursuant to subdivision (a) of Section 33413, the implementation plan shall identify either of the following:

(A) The replacement dwelling units that satisfy each replacement housing obligation.

(B) In the case where dwelling units have been destroyed or removed, but replacement units are not yet complete, the proposed location of the replacement dwelling units.

(4) The implementation plan shall include a complete accounting for compliance with the agency's affordable housing obligations

over the life of the plan, including the total number of units the agency is obligated to replace pursuant to subdivision (a) of Section 33413, the number of units the agency is obligated to produce pursuant to subdivision (b) of Section 33413, and the number of dwelling units that satisfy these obligations.

(A) For each owner-occupied unit or rental unit counted towards meeting the agency obligations under subdivision (a) or (b) of Section 33413 and required to be included in the database required pursuant to subdivision (c) of Section 33418, or for each group of such units, if more than one unit is subject to the same covenant, the implementation plan shall identify all of the following:

(i) The street address and assessor's parcel number of the property and, for properties where units are listed as a group, the number of units.

(ii) The size of each unit, measured by the number of bedrooms.

(iii) The affordability level of each unit, according to the categories required by Section 33413.

(iv) The year in which the construction or substantial rehabilitation of the unit was completed.

(v) The date of recordation and document number of the affordability covenants or restrictions required under subdivision (f) of Section 33334.3 or subdivision (c) of Section 33413.

(vi) The date on which the covenants or restrictions expire.

(vii) For the projects developed prior to January 1, 2002, a statement of the effective period of the land use controls established in the plan at the time each unit was developed, in order to demonstrate that the duration of the covenants or restrictions extends for a period not less than the applicable period of land use controls, in accordance with then applicable law.

(viii) For owner-occupied units that have changed ownership during the previous implementation plan period, the date and document number of the new affordability covenants or other documents recorded to ensure that the affordability restriction is enforceable and continues to run with the land.

(ix) Whether the unit counts towards a replacement obligation pursuant to subdivision (a) of Section 33413 or towards a production obligation pursuant to subdivision (b) of Section 33413. Units counted towards a replacement obligation shall reference the destroyed units they are replacing.

(B) For each owner-occupied unit or rental unit counted towards meeting the agency obligations under subdivision (a) or (b) of Section 33413 and not required to be included in the database required pursuant to subdivision (c) of Section 33418, or for each group of such units, if more than one unit is subject to the same covenant, the implementation plan shall identify all of the following:

(i) The street address and, if available, assessor's parcel number of the property.

(ii) For properties where units are listed as a group, the number of units.

(iii) The affordability level of each unit, according to the categories required by Section 33413.

(iv) The year in which the construction or substantial rehabilitation of the unit was completed.

(v) The date of recordation and document number of the affordability covenants or restrictions required under subdivision (f) of Section 33334.3 or subdivision (c) of Section 33413.

(vi) The date on which the covenants or restrictions expired.

(vii) Whether the unit counts towards a replacement obligation pursuant to subdivision (a) of Section 33413 or towards a production obligation pursuant to subdivision (b) of Section 33413. Units counted towards a replacement obligation shall reference the destroyed units they are replacing.

(5) Notwithstanding subparagraphs (A) and (E) of paragraph (4), the implementation plan shall omit any property used to confidentially house victims of domestic violence.

(6) For a project area that is within six years of the time limit on the effectiveness of the redevelopment plan established pursuant to Section 33333.2, 33333.6, 33333.7, or 33333.10, the portion of the implementation plan addressing the housing responsibilities shall specifically address the ability of the agency to comply, prior to the time limit on the effectiveness of the redevelopment plan, with subdivision (a) of Section 33333.8, subdivision (a) of Section 33413 with respect to replacement dwelling units, subdivision (b) of Section 33413 with respect to project area housing, and the disposition of the remaining moneys in the Low and Moderate Income Housing Fund.

(7) The implementation plan shall identify the fiscal year that the agency expects each of the following time limits to expire:

(A) The time limit for the commencement for eminent domain proceedings to acquire property within the project area.

(B) The time limit for the establishment of loans, advances, and indebtedness to finance the redevelopment project.

(C) The time limit for the effectiveness of the redevelopment plan.

(D) The time limit to repay indebtedness with the proceeds of property taxes.

(b) For a project area for which a redevelopment plan is adopted on or after January 1, 1994, the implementation plan prepared pursuant to subdivision (c) of Section 33352 shall constitute the initial implementation plan and thereafter the agency after a public hearing shall adopt an implementation plan every five years commencing with the fifth year after the plan has been adopted. Agencies may adopt implementation plans that include more than one project area.

(c) Every agency, at least once within the five-year term of the plan, shall conduct a public hearing and hear testimony of all interested parties for the purpose of reviewing the redevelopment plan and the corresponding implementation plan for each redevelopment project within the jurisdiction and evaluating the progress of the redevelopment project. The hearing required by this subdivision shall take place no earlier than two years and no later than three years after the adoption of the implementation plan. For a project area that is within three years of the time limit on the effectiveness of the redevelopment plan established pursuant to Section 33333.2, 33333.6, 33333.7, or 33333.10, the review shall specifically address those items in paragraph (4) of subdivision (a). An agency may hold one hearing for two or more project areas if those project areas are included within the same implementation plan.

(d) Notice of public hearings conducted pursuant to this section shall be published pursuant to Section 6063 of the Government Code, mailed at least three weeks in advance to all persons and agencies that have requested notice, and posted in at least four permanent places within the project area for a period of three weeks and concurrently posted on the Internet. Publication, mailing, and posting shall be completed not less than 10 days prior to the date set for hearing.

SEC. 18. Section 33506 is added to the Health and Safety Code, to read:

33506. (a) A failure to meet any of the following obligations shall be an ongoing violation until the agency has fully met the obligation:

(1) The obligation to eliminate project deficits pursuant to Sections 33334.6, 33487, 33492.16, and other similar and related provisions of law.

(2) The obligation to expend or encumber excess surplus funds pursuant to Section 33334.12 and other similar and related provisions of law.

(3) The obligation to provide relocation assistance pursuant to Article 9 (commencing with Section 33410), Section 7260 of the Government Code, or other applicable relocation laws.

(4) The obligation to provide replacement housing pursuant to subdivision (a) of Section 33413, Article 9 (commencing with Section 33410), and other similar and related provisions of law.

(5) The obligation to provide housing pursuant to subdivision (b) of Section 33413 and other similar and related provisions of law.

(6) The obligation to monitor and enforce affordability covenants required pursuant to Section 33418.

(7) The obligation to continue the project past the effectiveness date of the redevelopment plan pursuant to Section 33333.8.

(8) The obligation to expend funds proportionately to assist housing for persons of extremely low, very low, or low income or to assist housing available to all persons regardless of age pursuant to Section 33334.4.

(9) The obligations to record covenants that run with the land pursuant to subdivision (f) of Section 33334.3 and subdivision (c) of Section 33413(c).

(b) This section is declaratory of existing law.

SEC. 19. Section 50464.5 is added to the Health and Safety Code, to read:

50464.5. (a) The Redevelopment Agency Accountability Fund is hereby created in the State Treasury and is available, upon appropriation, to the department for the purposes of subdivision (b). Notwithstanding Section 16305.7 of the Government Code, any moneys received by the department pursuant to Section 33460, and any other sources, repayments, interest, or new appropriations,

shall be deposited in the fund. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund. The department may require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. Notwithstanding Section 16305.7 of the Government Code, all interest, dividends, and pecuniary gains from the investments shall accrue to the fund.

(b) With funds made available pursuant to subdivision (a), the department shall conduct audits of redevelopment agencies to ensure compliance with the housing provisions of the Community Redevelopment Law. The department shall include in the audits a review of agency compliance with production and replacement housing obligations, recording and monitoring of affordability covenants, provision of relocation assistance, propriety of deposits to and expenditures from the Low and Moderate Income Housing Fund, compliance with the debt limit of the agency, adoption of a legally sufficient implementation plan, each of the major audit violations pursuant to subdivision (j) of Section 33080.8, and any other accounting practice or provision of the Community Redevelopment Law in the discretion of the department. The department shall require that each agency take action to correct the audit violations. If the department determines that an agency has not corrected the audit violations within 180 days of a final audit report, it shall forward all relevant documents to the Attorney General for action pursuant to Section 33080.9. The department shall make available on its Internet Web site the final audit reports, a statement of any resolution of audit reports, or if not resolved, the date audit reports were forwarded to the Attorney General.

Approved _____, 2011

Governor